

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALVIN MAXWELL,
Movant,
UNITED STATES OF AMERICA ,
Respondent.

Case # 21 Cr 247 (PAE)
Criminal # 21-CR-00247-PAE

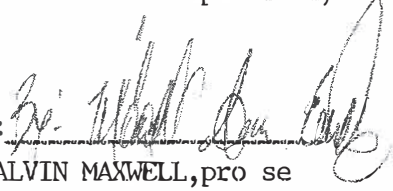
MOTION TO VOLUNTARILY DISMISS
PURSUANT FED.R. CIV. P.41 (a)

COMES NOW, the Movant Alvin Maxwell, pro se, moves this Honorable Court to voluntarily dismiss his §2255 motion without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. Rule 41(a) gives movant an absolute right to voluntarily dismiss his action "without order of the court" as long as he files notice of dismissal prior to the respondent's answer. United States v. Tamfu, 2002 U.S. Dist. LEXIS 19771 (N.D. TX. Oct.15, 2002)(discussing Rule 41 (a)). In this case, Movant's §-2255 motion was filed well within the one year tolling period. Therefore, dismissal of his pro se §2255 motion without prejudice is requested until petitioner's one-year tolling period expires .

Respectfully submitted,

Date April 18, 2023

By:


ALVIN MAXWELL, pro se
REG.NO. 77732-509
FCI Texarkana
Post Office Box 7000
A01-Unit
Texarkana, Texas 75505

GRANTED. Petitioner Maxwell's petition is dismissed, without prejudice. The Clerk of Court is requested to terminate the motion at Dkt. No. 275. and to close the associated civil case at 23-CV-2254 (PAE).

5/11/2023

SO ORDERED.


PAUL A. ENGELMAYER
United States District Judge